



Press Release

Call to the International Criminal Court to investigate on Ursula von der Leyen for complicity in war crimes and genocide committed by Israel in the Occupied Palestinian Territories and in Gaza

27 May 2024, Geneva - On May 22, 2024, the Geneva International Peace Research Institute (GIPRI), the Collectif de Juristes pour le Respect des Engagements Internationaux de la France (CJRF) and a group of international concerned citizens, **submitted a legal brief to the Prosecutor of the International Criminal Court (ICC) Karim Khan requesting the opening of an investigation against Ursula von der Leyen for complicity in war crimes and genocide against Palestinian civilians in the Occupied Palestinian Territories, including the Gaza Strip.**

This legal brief, endorsed by various human rights groups and prominent academics and experts in international criminal law, calls the Prosecutor to initiate investigations on the basis of the information provided against Mrs. Ursula von der Leyen. The latter has been repeatedly informed of violations of international humanitarian law committed in the Occupied Palestinian Territories, particularly in the Gaza Strip, through reports from international organizations and foreign governments. This is evidenced by a letter sent to her on February 14, 2024, by the President of the Spanish government, Pedro Sánchez, and the then Irish Prime Minister, Leo Varadkar.¹

Mrs Ursula von der Leyen is responsible for aiding and abetting the commission of crimes and violations of international humanitarian law, within the meaning of Article 25(3)(c) of the Rome Statute of the International Criminal Court. Mrs von der Leyen enjoys no functional immunity before the International Criminal Court by virtue of Article 27 of the Rome Statute.

The President of the European Commission is complicit in violations of Articles 6, 7 and 8 of the Rome Statute by her positive actions (military, political, diplomatic support to Israel) and by her failure to take timely action on behalf of the European Commission to help prevent genocide as required by the 1948 Genocide Convention. Mrs. Ursula von der Leyen cannot deny awareness of the plausibility of these crimes, especially following the International Court of Justice's provisional measures order of 26 January 2024 in the pending ICJ case South Africa v. Israel. More importantly, Mrs. Von der Leyen has failed to take appropriate action to prevent such crimes, whereas the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the Statute of the International Criminal Court make prevention an *erga omnes* obligation.

For any further information, please contact :

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¹ Leo Varadkar and Pedro Sánchez, *Letter to the President of the Commission of the European Union Mrs. Ursula von der Leyen*, Oifig an Taoisigh (Office of the Taoiseach) and Gobierno de España – Presidencia del Gobierno, 14/02/2024: <https://www.lamoncloa.gob.es/presidente/actividades/Documents/2024/Letter-to-Commission-President-Ursula-Von-der-Leyen.pdf>



Oifig an Taoisigh
Office of the Taoiseach



H.E. Ursula von der Leyen

President of the European Commission

14 February 2024

Dear President,

We are deeply concerned at the deteriorating situation in Israel and in Gaza, especially the impact the ongoing conflict is having on innocent Palestinians, especially children and women. The expanded Israeli military operation in the Rafah area poses a grave and imminent threat that the international community must urgently confront.

Almost 28,000 Palestinians have been killed, and more than 67,000 are injured, and we have witnessed the displacement of 1.9 million people (85% of the population) within Gaza and the wholesale destruction of homes and extensive damage to vital civilian infrastructure, including hospitals.

We have repeatedly expressed our total condemnation of Hamas' indiscriminate terrorist attacks of October 7th and call for the immediate and unconditional release of remaining hostages.

We have been equally clear that Israel has a right to defend itself from such attacks, but this may only be exercised in line with international law, including International Humanitarian Law (IHL) and international human rights law. The response *must* comply with the principles of distinction, proportionality and precaution.

Importantly, IHL imposes a clear obligation on all parties, to all conflicts, to ensure the protection of civilians. The horrendous terrorist attacks committed by Hamas and other armed

groups do not, and cannot, justify any breaches of IHL in the military response, with the resulting consequences for the civilian population of Gaza.

We share the concerns of the UN Secretary General, set out in his letter to the Security Council on 7 December, about the appalling human suffering, physical destruction and collective trauma of civilians, and the risks to them given his view that nowhere in Gaza is safe. In the period since, the situation has only deteriorated further.

Wholly inadequate humanitarian access to meet the essential needs of the population means that the UN estimates that 90% of the population face acute food insecurity, with a serious risk of famine developing.

We note also the binding provisional measures imposed by the International Court of Justice on 26 January in the *South Africa v Israel* case, and its assessment that at least some of the acts or omissions alleged by South Africa to have been committed by Israel in Gaza may fall within the provisions of the Genocide Convention, and that there was a risk of irreparable prejudice to the rights at stake in the case.

We have made clear view that, to prevent further irreversible harm to the people of Gaza, an immediate humanitarian ceasefire is urgently required, a position which was endorsed by a very large majority in the United Nations General Assembly in December, including by 17 EU Member States.

We are deeply concerned at allegations that staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) may have been involved in the attacks on Israel of 7 October.

We fully support the decision of UNRWA Commissioner General Lazzarini to immediately terminate the contracts of those concerned as well as the launching of a comprehensive independent investigation by the UN.

At the same time, we have been clear that UNRWA must be allowed to operate to continue its vital work saving lives and addressing the catastrophic humanitarian situation in Gaza and that EU support to UNRWA must be maintained. There is no pathway to achieving the urgent massive and sustained scale up in humanitarian assistance, through full, safe and unhindered humanitarian access that is needed, without UNRWA playing a central role.

We recall that the ICJ has ordered Israel to take immediate and effective measures to ensure urgently needed basic services and humanitarian assistance are provided in Gaza. These orders are binding.

Against the background of the risk of an even greater humanitarian catastrophe posed by the imminent threat of Israeli military operations in Rafah, and given what has occurred, and continues to occur in Gaza since October 2023, including widespread concern about possible breaches of IHL and international human rights law by Israel, we ask that the Commission undertake an urgent review of whether Israel is complying with its obligations, including under the EU/Israel Association Agreement, which makes respect for human rights and democratic principles an essential element of the relationship; and if it considers that it is in breach, that it proposes appropriate measures to the Council to consider.

Finally, we must not lose sight of the pressing need for a political perspective to end the conflict. The implementation of the two-State solution is the only way to make sure this cycle of violence does not repeat itself. The EU has a responsibility to take action to make this a reality, in coordination with the parties and the international community, including through an international peace conference, as agreed by the European Council on 26 October.

Given his role in the matter, we are also copying this letter to EUHR Vice President Borrell.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Leo Varadkar'.

Leo Varadkar TD
Taoiseach

A handwritten signature in blue ink, appearing to read 'P. Sánchez'.

Pedro Sánchez
President of the Government of Spain